

REMARKS

Claims 1 through 70 are pending in this application. Of these claims, claims 11 through 22, 24 and 47 through 70 have been withdrawn from consideration. Thus claims 1 through 10, 23 and 25 through 46 have been considered in the present Office Action (Action). Claims 3, 25, 27 and 36 have been canceled by this amendment. Applicants note with appreciation the fact that the Action has indicated that claim 36 would be allowable if rewritten in independent form. For at least the reasons set forth below, Applicants believe that the application is in condition for allowance.

Claims 1, 3, 4, 6 through 10, 23, 25, 27, 28 and 30 through 34 stand rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 4,543,098 to Wolfe et al. (Wolfe).

Independent claim 1 recites a pre-expanded tampon pledget comprising a cellulosic fiber. The tampon pledget has a density about 0.01 grams per cubic centimeter (g/cc) to about 0.39 g/cc and an absorbency about 6 grams to about 18 grams. The absorbency is achieved by the cellulosic fiber without the use of a transfer layer.

Independent claim 23 recites a pre-expanded tampon pledget comprising a cellulosic fiber. The tampon pledget has a density about 0.01 g/cc to about 0.32 g/cc

and an absorbency about 9 grams to about 12 grams. The absorbency is achieved by the cellulosic fiber without the use of a transfer layer.

Wolfe discloses a multi-layered tampon pledget having an outer layer with a web of thermoplastic fibers that is integrated to a nonwoven thermoplastic cover. The pledget also includes an absorbent insert that may be a thermoplastic nonwoven microfibrous web. The multi-layered pledget has a density between about 0.15 and 0.25 g/cc. The absorbency of the multi-layered pledget is about 4 grams absorbed per gram weight of absorbent.

The claimed invention clearly distinguishes from Wolfe in that the claimed density and absorbency is achieved absent a cover [transfer layer] (specification at page 7, lines 7-8 and page 8, lines 20-21), contrary to the multi-layered pledget of Wolfe. Unlike the claimed pledget, the multi-layered Wolfe pledget requires an outer or transfer layer having thermoplastic fibers integrated with a non-woven, thermoplastic cover (col. 1, lines 59-62 and col. 2, lines 38-39). Where Wolfe discloses the density and absorbency of the pledget, the parameters are specific to the multi-layered pledget that includes a cover (col. 4, line 65 to col. 6, line 4).

The integration of the cover to the outer pledget layer is an important feature of the Wolfe pledget. The integration alters the character of the outer pledget layer by providing transfer zones of increased density and compression. These zones provide conduits for transfer of menses to the microfibrous inner layer due to the compression

and the subsequent smaller capillaries formed in the transfer zone. Therefore, the integrated cover is not only a consideration when determining the density of the multi-layered pledget of Wolfe, but the cover also plays an important role in allowing menses to be absorbed by the pledget, thus impacting the absorbency of the pledget. This is opposite that of the claimed pledget, which does not require an integrated cover.

Therefore, the multi-layered pledget of Wolfe clearly requires an integrated cover to achieve the density and absorbency disclosed, whereas the claimed pledget realizes the claimed density and absorbency, without a cover (specification, page 7, lines 7-8).

With respect to claims 7 and 31, the Action maintains that Wolfe discloses a cross-pad construction. It is respectfully submitted that Wolfe fails to disclose a pledget formed from a cross-pad construction, as recited in claims 7 and 31. As known by those skilled in the tampon art, a cross pad construction includes two rectangular pads laid on one another at a 90° angle to form an 'X' or cross pattern. The pads are then folded up, with the center becoming the string end. To the contrary, Wolfe discloses a single pad that is either folded upon itself to form an inverted cone (Fig. 3) or is folded in half and enclosed in a second coverstock (Fig. 4). Clearly, Wolfe fails to disclose a cross-pad construction, as claimed.

With respect to claims 8 and 32, the Action maintains that Wolfe discloses a radial construction. As known to those skilled in the tampon art, radial construction includes forming a long rectangular pad and rolling the pad to form a cylindrical or radial

pledget. Wolfe fails to disclose a radially constructed pledget, as recited in claims 8 and 32. The pledget set forth in Fig. 3 of Wolfe clearly is not a radial pledget. To the contrary, it is the pledget of Fig. 2 folded to form an inverted cone shape (col. 4, lines 56-61), and not rolled to form a radial pledget.

As such, claims 1, 4, 6 through 10, 23, 28 and 30 through 34 are patentably distinguishable over Wolfe. Therefore, reconsideration and withdrawal of the §102(b) rejection is respectfully requested.

Claims 35 and 37 through 45 stand rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 5,364,383 to Hayes et al. (Hayes).

Independent claim 35 recites a pre-expanded tampon pledget having a density about 0.02 g/cc to about 0.035 g/cc and an absorbency about 9 grams to about 12 grams.

As noted on page 5, paragraph 9 of the Action, claim 36 would be allowable if rewritten in independent form. Independent claim 35 includes the allowable subject matter of claim 36, namely a tampon pledget having a density about 0.02 g/cc to about 0.035 g/cc, which is clearly not disclosed by Hayes. Therefore, Applicants respectfully submit that claim 35, as well as claims 37 through 45, which depends directly or indirectly from claim 35, are in condition for allowance.

Claims 2, 5, 26 and 29 stand rejected under 35 USC §103(a) as being unpatentable over Wolfe, which is set forth above.

Dependent claims 2 and 5 depend directly from claim 1. Dependent claims 26 and 29 now depend directly from independent claim 23. As discussed above, claims 1 and 23 are patentably distinguishable over Wolfe. Therefore, it follows that claims 2, 5, 26 and 29, which depend from these independent claims, are also patentably distinguishable over Wolfe.

Moreover, with respect to claims 5 and 29, the Action correctly notes that Wolfe fails to disclose the features recited in these claims. Claims 5 and 29 each recite that the cellulosic fiber is present in the tampon pledgets of claims 1 and 23, respectively, in an amount about 1.3 grams to about 4.5 grams. Applicants disagree with the Action's contention that it would be obvious to one of ordinary skill in the art to use the claimed amounts of cellulosic fiber to adjust the absorbency characteristics of the tampon. As noted above, the Wolfe tampon achieves its desired density only through the use of a complex, multiple-layered pledget that includes an integral transfer layer, not by adjusting the amount of cellulosic fiber. It is only the presently claimed tampon, without a transfer layer, and with the claimed cellulosic fiber amounts, that achieves the claimed density. There is no disclosure or suggestion in Wolfe to use cellulosic fiber in the claimed amount recited in claims 5 and 29, in a pre-expanded tampon pledget as recited in claims 1 and 23.

Accordingly, for at least the reasons set forth above, claims 2, 5, 26 and 29 are patentably distinguishable over Wolfe. Therefore, reconsideration and withdrawal of the §103(a) rejection of these claims is respectfully requested.

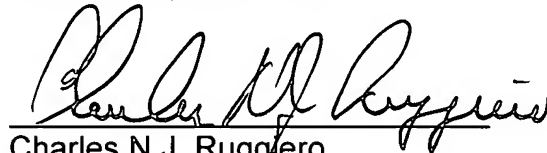
Claim 46 stands rejected under 35 USC §103(a) as being unpatentable over Hayes in view of U.S. Patent No. 5,350,371 to Van Iken.

Dependent claim 46 depends directly from independent claim 35. As noted above, claim 35 is patentably distinguishable over Hayes. Therefore, it follows that claim 46 is also patentably distinguishable over the cited art. Therefore, reconsideration and withdrawal of the §103(a) rejection of this claim is respectfully requested.

Overall, for at least the reasons set forth above, Applicants respectfully submit that the pending claims define an invention that is neither disclosed or suggested by the cited references. As such, reconsideration and withdrawal of the rejections and passage of this application to allowance is respectfully requested.

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Respectfully submitted,



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